

SECOND REGULAR SESSION

SENATE BILL NO. 885

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CAUTHORN.

Read 1st time January 17, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

3283S.03I

AN ACT

To repeal sections 374.710, 374.715, 374.755, 374.759, and 544.640, RSMo, and to enact in lieu thereof eight new sections relating to bail bond licensure, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 374.710, 374.715, 374.755, 374.759, and 544.640, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 374.707, 374.710, 374.715, 374.755, 374.759, 374.761, 374.773, and 544.640, to read as follows:

374.707. The department of insurance shall notify any general bail bond agent who is listed as having a forfeited bond. Such attempt by the department to notify the general bail bond agent shall be made by fax or e-mail within forty-eight hours of the forfeiture being listed with the department.

374.710. 1. Except as otherwise provided in sections 374.695 to 374.775, no person or other entity shall practice as a bail bond agent or general bail bond agent, as defined in section 374.700, in Missouri unless and until the department has issued to him or her a license, to be renewed every two years as hereinafter provided, to practice as a bail bond agent or general bail bond agent. **The department shall include the photograph of the bail bond agent or general bail bond agent, provided under section 374.715, on the license.**

2. An applicant for a bail bond and general bail bond agent license shall submit with the application proof that he or she has received twenty-four hours of initial basic training in areas of instruction in subjects determined by the director deemed appropriate to professionals in the bail bond profession. Bail

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 bond agents and general bail bond agents who are licensed at the date which this
13 act becomes law shall be exempt from such twenty-four hours of initial basic
14 training.

15 3. In addition to the twenty-four hours of initial basic training to become
16 a bail bond agent or general bail bond agent, there shall be eight hours of
17 biennial continuing education for all bail bond agents and general bail bond
18 agents to maintain their state license. The director shall determine said
19 appropriate areas of instruction for said biennial continuing education. The
20 director shall determine which institutions, organizations, associations, and
21 individuals shall be eligible to provide the initial basic training and the biennial
22 continuing education instruction. The department may allow state institutions,
23 organizations, associations, or individuals to provide courses for the initial basic
24 training and the biennial continuing education training. The cost shall not
25 exceed two hundred dollars for the initial basic training and one hundred fifty
26 dollars for biennial continuing education.

27 4. Upon completion of said basic training or biennial continuing
28 education and the licensee meeting the other requirements as provided under
29 sections 374.695 to 374.789, the director shall issue a two-year license for the bail
30 bond agent or general bail bond agent for a fee not to exceed one hundred fifty
31 dollars.

32 5. **A person shall provide the name, address, and telephone**
33 **number of each employer for which he or she works to the department**
34 **upon receiving a license to be a bail bond agent or general bail bond**
35 **agent. The bail bond agent or general bail bond agent shall update**
36 **such employer information with the department before he or she begins**
37 **writing bond for a new employer.**

38 6. Nothing in sections 374.695 to 374.775 shall be construed to prohibit
39 any person from posting or otherwise providing a bail bond in connection with
40 any legal proceeding, provided that such person receives no fee, remuneration or
41 consideration therefor.

374.715. 1. Applications for examination and licensure as a bail bond
2 agent or general bail bond agent shall be in writing and on forms prescribed and
3 furnished by the department, and shall contain such information as the
4 department requires. Each application shall be accompanied by proof satisfactory
5 to the department that the applicant is a citizen of the United States, is at least
6 twenty-one years of age, has a high school diploma or general education

7 development certificate (GED), is of good moral character, and meets the
8 qualifications for surety on bail bonds as provided by supreme court rule. Each
9 application shall be accompanied by the examination [and], **the application fee**
10 **set by the department, a photo identification, a standardized fingerprint**
11 **card with the person's fingerprints processed by a law enforcement**
12 **agency, and the results of a criminal history record information check**
13 **processed by the highway patrol under sections 43.500 to 43.543,**
14 **RSMo.** Individuals currently employed as bail bond agents and general bail bond
15 agents shall not be required to meet the education requirements needed for
16 licensure pursuant to this section.

17 2. In addition, each applicant for licensure as a general bail bond agent
18 shall furnish proof satisfactory to the department that the applicant or, if the
19 applicant is a corporation, that each officer thereof has completed at least two
20 years as a bail bond agent, and that the applicant possesses liquid assets of at
21 least ten thousand dollars, along with a duly executed assignment of ten
22 thousand dollars to the state of Missouri. The assignment shall become effective
23 upon the applicant's violating any provision of sections 374.695 to 374.789. The
24 assignment required by this section shall be in the form and executed in the
25 manner prescribed by the department. The director may require by regulation
26 conditions by which additional assignments of assets of the general bail bond
27 agent may occur when the circumstances of the business of the general bail bond
28 agent warrants additional funds. However, such additional funds shall not
29 exceed twenty-five thousand dollars.

30 **3. Any applicant who provides false information under this**
31 **section shall be guilty of a class A misdemeanor.**

374.755. 1. The department may cause a complaint to be filed with the
2 administrative hearing commission as provided by chapter 621, RSMo, against
3 any holder of any license required by sections 374.695 to 374.775 or any person
4 who has failed to renew or has surrendered his or her license for any one or any
5 combination of the following causes:

6 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or
7 alcoholic beverage to an extent that such use impairs a person's ability to perform
8 the work of the profession licensed under sections 374.695 to 374.775;

9 (2) **Final adjudication or a plea of guilty or nolo contendere in a**
10 **criminal prosecution under any state or federal law for any dangerous**
11 **felony, as defined by section 556.061, RSMo;**

12 **(3)** Final adjudication or a plea of guilty or nolo contendere within the
13 past fifteen years in a criminal prosecution under any state or federal law for a
14 felony or a crime involving moral turpitude whether or not a sentence is imposed,
15 prior to issuance of license date;

16 **[(3)] (4)** Use of fraud, deception, misrepresentation or bribery in securing
17 any license or in obtaining permission to take any examination required pursuant
18 to sections 374.695 to 374.775;

19 **[(4)] (5)** Obtaining or attempting to obtain any compensation as a
20 member of the profession licensed by sections 374.695 to 374.775 by means of
21 fraud, deception or misrepresentation;

22 **[(5)] (6)** Misappropriation of the premium, collateral, or other things of
23 value given to a bail bond agent or a general bail bond agent for the taking of
24 bail, incompetency, misconduct, gross negligence, fraud, or misrepresentation in
25 the performance of the functions or duties of the profession licensed or regulated
26 by sections 374.695 to 374.775;

27 **[(6)] (7)** Violation of any provision of or any obligation imposed by the
28 laws of this state, department of insurance rules and regulations, or aiding or
29 abetting other persons to violate such laws, orders, rules or regulations, or
30 subpoenas;

31 **[(7)] (8)** Transferring a license or permitting another person to use a
32 license of the licensee;

33 **[(8)] (9)** Disciplinary action against the holder of a license or other right
34 to practice the profession regulated by sections 374.695 to 374.789 granted by
35 another state, territory, federal agency or country upon grounds for which
36 revocation or suspension is authorized in this state;

37 **[(9)] (10)** Being finally adjudged insane or incompetent by a court of
38 competent jurisdiction;

39 **[(10)] (11)** Assisting or enabling any person to practice or offer to
40 practice the profession licensed or regulated by sections 374.695 to 374.789 who
41 is not currently licensed and eligible to practice pursuant to sections 374.695 to
42 374.789;

43 **[(11)] (12)** Acting in the capacity of an attorney at a trial or hearing of
44 a person for whom the attorney is acting as surety;

45 **[(12)] (13)** Failing to provide a copy of the bail contract, **[renumbered]**
46 **prenumbered** written receipt for acceptance of money, or other collateral for the
47 taking of bail to the principal, if requested by any person who is a party to the

48 bail contract, or any person providing funds or collateral for bail on the
49 principal's behalf;

50 **(14) Having filed bankruptcy within the past seven years as an**
51 **owner or officer any company or corporation that was created for the**
52 **purpose of engaging in the bail bond business.**

53 2. After the filing of such complaint, the proceedings shall be conducted
54 in accordance with the provisions of chapter 621, RSMo. Upon a finding by the
55 administrative hearing commission that one or more of the causes stated in
56 subsection 1 of this section have been met, the director may suspend or revoke
57 the license or enter into an agreement for a monetary or other penalty pursuant
58 to section 374.280.

59 3. In lieu of filing a complaint at the administrative hearing commission,
60 the director and the bail bond agent or general bail bond agent may enter into an
61 agreement for a monetary or other penalty pursuant to section 374.280.

62 4. In addition to any other remedies available, the director may issue a
63 cease and desist order or may seek an injunction in a court of competent
64 jurisdiction pursuant to the provisions of section 374.046 whenever it appears
65 that any person is acting as a bail bond agent or general bail bond agent without
66 a license or violating any other provisions of sections 374.695 to 374.789.

67 **5. Any bail bond agent or general bail bond agent who has his or**
68 **her license revoked by the director shall return such license to the**
69 **department. Any agent who fails to return his or her license when**
70 **required by this section shall be guilty of a class A misdemeanor.**

71 **6. To the extent that rule 33.17 of the Missouri rules of civil**
72 **procedure contradicts any provision of this section, the provisions of**
73 **this section shall prevail.**

374.759. 1. Any bail bond agent licensed in the state of Missouri shall
2 have access to all publicly available court records of the defendant by available
3 means to make a realistic assessment of the defendant's probability of attending
4 all court dates as set in his or her charges relating to the bond request.

5 2. Any defendant shall have free access to any bail bond agent via one
6 phone call so long as the call is made to a local phone number. All other numbers
7 may be available as a collect call to any nonlocal number.

8 3. All Missouri licensed bail bond agents or licensed general agents shall
9 be qualified, without further requirements, in all jurisdictions of this state, as
10 provided in rules promulgated by the supreme court of Missouri and not by any

11 circuit court rule.

12 **4. If the court orders any bond for a defendant, the bail bond**
13 **agent may issue said amount for the bond with his or her surety. Such**
14 **surety shall be accepted in the same manner as cash for a cash bond if**
15 **the amount exceeds one thousand dollars.**

374.761. 1. A bail bond agent shall be qualified to write bail in
2 **a circuit court if the general bail bond agent who employs the agent is**
3 **licensed and qualified to write bail in the court and the bail bond agent**
4 **is also licensed under sections 374.695 to 374.789, and is in good**
5 **standing with the department of insurance.**

6 **2. Any general bail bond agent, or any bail bond agent employed**
7 **by a general bail bond agent, who is licensed and satisfies the**
8 **requirements of sections 374.695 to 374.789, shall qualify to write bail**
9 **in any circuit court. To the extent that rule 33.18(e) of the Missouri**
10 **rules of civil procedure contradicts any provision of this section, the**
11 **provisions of this section shall prevail.**

374.773. Any licensed general bail bond agent or bail bond agent
2 **who is arrested for a felony shall notify the department of insurance**
3 **within ten days of his or her arrest.**

544.640. 1. If, without sufficient cause or excuse, the defendant fails to
2 **appear either in person or by legal counsel for trial or judgment, or upon**
3 **any other occasion when his or her presence in court may be lawfully required,**
4 **according to the condition of his recognizance, the court must direct the fact to be**
5 **entered upon its minutes, and thereupon [the recognizance is forfeited, and the**
6 **same shall be proceeded upon by scire facias to final judgment and execution**
7 **thereon, although the defendant may be afterward arrested on the original**
8 **charge, unless remitted by the court for cause shown] at the end of the court**
9 **day the court may forfeit the bond and order an execution hearing not**
10 **sooner than sixty days but not later than one hundred eighty days after**
11 **the date the person failed to appear. Notice of the execution hearing**
12 **shall be served within ten days of such failure to appear by certified**
13 **copy of bond to the surety's office. Service shall be completed upon**
14 **certified mailing of such certified notice.**

15 **2. If at the execution hearing it is determined that the judgment**
16 **should be entered, the court shall so order and a writ of scire facias**
17 **shall be filed in the office of the clerk of the court where such judgment**
18 **is entered.**

19 **3. The court must issue a warrant for the defendant for failure**
20 **to appear.**

21 **4. If the bail bond agent provides proof of the incarceration of**
22 **the defendant who failed to appear, or provides proof to the court that**
23 **it is physically impossible for the defendant bail bond agent or surety**
24 **to satisfy the conditions of the bond through no fault of the bail bond**
25 **agent or surety and the court agrees with the physically impossible**
26 **conditions, the bail bond agent or surety shall be released from liability**
27 **and all money and property deposited with the court shall be returned**
28 **within ten days.**

29 **5. In cases in which subsection 2 of this section is not applicable,**
30 **on application of the surety filed within one hundred eighty days of the**
31 **payment of final judgment, the court shall order remission of one**
32 **hundred percent of the bond amount to the surety if the surety**
33 **surrenders the principal to an authorized officer, or such surrender has**
34 **been denied by an authorized officer, or the surety locates the**
35 **defendant in custody in another jurisdiction. If it is shown to the court**
36 **by presentation of competent evidence from the surety or the holding**
37 **institution that such surrender has been made or denied or that the**
38 **defendant is in custody in another jurisdiction or that such surrender**
39 **has been made, the court shall direct that the judgment be marked**
40 **satisfied and that the writ of execution, scire facias, be canceled. The**
41 **court shall notify the surety's main office by certified mail within ten**
42 **days' notification of the defendant's incarceration.**

43 **6. A defendant shall be surrendered without the return of**
44 **premium for the bond if the indemnitor attests in writing the desire to**
45 **be released from the bond or if the surety or the bail bond agent**
46 **discovers that the defendant is guilty of:**

47 **(1) Failing to appear in court;**

48 **(2) Changing his or her address without notifying the bail bond**
49 **agent or surety in writing;**

50 **(3) Concealing himself or herself;**

51 **(4) Leaving the jurisdiction of the court without the written**
52 **permission of his or her bail bond agent or surety or court;**

53 **(5) Violating his or her contract with the bail bond agent or**
54 **surety in a way that may be harmful to the bail bond agent or the**
55 **surety or violating his or her obligation to the court;**

56 **(6) Being arrested for a crime other than a traffic violation**
57 **where the penalty is an infraction or a misdemeanor;**

58 **(7) Failing to pay any fee due to the bail bond agent or surety;**

59 **(8) Providing false information to the bail bond agent or surety;**

60 **or**

61 **(9) Knowingly or unknowingly violating any other condition of**
62 **the bail or bail bond contract.**

63 **7. Upon forfeiture of the bond, the court may order that the**
64 **defendant's driver's license be suspended until the defendant has**
65 **satisfied the forfeiture.**

66 **8. The provisions of this section shall apply to all bail bonds.**

67 **9. As used in this section, the term "bail bond" means the only**
68 **form of security to ensure subsequent court appearances accepted by**
69 **the courts in this state except for recognizance for people who are**
70 **located and who have not previously pleaded guilty to or been found**
71 **guilty of failure to appear.**

Bill ✓

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